

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**

# **A Bill**

**ACT 1184 OF 1995**  
**HOUSE BILL 1181**

4 **By: Representatives Northcutt, M. Wilson and Ferrell**

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7

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
9 ANNOTATED RELATING TO RIGHTS AND DUTIES OF THE OFFICE OF  
10 CHILD SUPPORT ENFORCEMENT OF THE DEPARTMENT OF FINANCE AND  
11 ADMINISTRATION; AND FOR OTHER PURPOSES."

12  
13

### **Subtitle**

14 "TO AMEND VARIOUS SECTIONS OF THE  
15 ARKANSAS CODE RELATING TO THE RIGHTS AND  
16 DUTIES OF THE OFFICE OF CHILD SUPPORT  
17 ENFORCEMENT."

18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20

21 SECTION 1. Arkansas Code § 9-10-104 is hereby amended to read as  
22 follows:

23 "9-10-104. Suit to determine paternity of illegitimate child. Petitions  
24 for paternity establishment may be filed by:

- 25 (1) A biological mother;  
26 (2) A putative father;  
27 (3) A person for whom paternity is not presumed or established by court  
28 order; or  
29 (4) The Office of Child Support Enforcement."

30

31 SECTION 2. Arkansas Code § 9-10-107(b) is hereby amended to read as  
32 follows:

33 "(b) (1) The chancery judge or judges of a judicial district shall  
34 provide for expedited support hearings in each county of the district.

35 (2) The judge or judges may request a waiver of the expedited  
36 process requirement in one (1) or more of the counties in the district, in

1 which case the Office of Child Support Enforcement and the Administrative  
2 Office of the Courts will furnish such information to the Director of the  
3 Department of Finance and Administration or his designee as may be required by  
4 the United States Secretary of Health and Human Services for granting a waiver  
5 of the expedited process in accordance with the provisions of the federal  
6 Child Support Enforcement Amendments of 1984, Public Law 98-378, and the  
7 regulations promulgated pursuant thereto. If the Secretary of Health and Human  
8 Services does not grant a waiver or if a waiver is revoked, the Director of  
9 the Department of Finance and Administration shall notify the Administrative  
10 Office of the Courts, which in turn shall notify the judge or judges of the  
11 county. The Chief Justice of the Arkansas Supreme Court shall immediately  
12 assign an additional chancery judge, or judges, to serve in accordance with  
13 this section, if necessary, to meet the time requirements for processing  
14 cases."

15

16 SECTION 3. Arkansas Code § 9-10-107(e) is hereby amended to read as  
17 follows:

18 "(e) The Office of Child Support Enforcement shall furnish the  
19 Administrative Office of the Courts with caseload information and data  
20 regarding Title IV-D cases filed by attorneys for the state."

21

22 SECTION 4. Arkansas Code § 9-12-303(b) is hereby amended to read as  
23 follows:

24 "(b) In actions initiated by the Office of Child Support Enforcement or  
25 the Department of Human Services, proceedings may also be commenced in the  
26 county where the defendant resides."

27

28 SECTION 5. Arkansas Code § 9-12-312(f) is hereby amended to read as  
29 follows:

30 "(f) The clerk of the court shall maintain accurate records of all  
31 support orders and payments made under this section and shall post to  
32 individual child support account ledgers maintained in the clerk's office all  
33 payments received directly by the Office of Child Support Enforcement and  
34 reported to the clerk by the Office of Child Support Enforcement. The Office  
35 of Child Support Enforcement shall provide the clerk with sufficient

1 information to identify the custodial and noncustodial parents, a docket  
2 number, and the amount and date of payment. The clerk shall keep on file the  
3 information provided by the Office of Child Support Enforcement for audit  
4 purposes."

5

6 SECTION 6. Arkansas Code § 9-14-105(b) is hereby amended to read as  
7 follows:

8 "(b) The following may file a petition to require the noncustodial  
9 parent or parents of a minor child to provide support for the minor child:

10 (1) Any parent having physical custody of a minor child;

11 (2) Any other person or agency to whom physical custody of a  
12 minor child has been given or relinquished;

13 (3) A minor child by and through his guardian or next friend; or

14 (4) The Office of Child Support Enforcement when the parent or  
15 person to whom physical custody has been relinquished or awarded is receiving  
16 assistance in the form of Aid to Families with Dependent Children, Medicaid,  
17 Title IV-E of the Social Security Act - Foster Care, or has contracted with  
18 the department for the collection of support."

19

20 SECTION 7. Arkansas Code § 9-14-106(a) is hereby amended to read as  
21 follows:

22 "(a) (1) (A) In determining a reasonable amount of support initially or  
23 upon review to be paid by the noncustodial parent or parents, the court shall  
24 refer to the most recent revision of the family support chart.

25 (B) It shall be a rebuttable presumption for the award of  
26 child support that the amount contained in the family support chart is the  
27 correct amount of child support to be awarded.

28 (C) Only upon a written finding that the application of the  
29 family support chart would be unjust or inappropriate, as determined under  
30 established criteria set forth in the family support chart, shall the  
31 presumption be rebutted.

32 (2) (A) The court may provide for abatement or reduction of the  
33 stated child support amount for any period of time that a child spends in  
34 excess of seven (7) consecutive days with the noncustodial parent as  
35 consecutive visitation, regardless of the manner in which it is exercised.

1 (B) The court shall consider whether an adjustment in child  
2 support is appropriate, giving consideration to the fixed obligations of the  
3 custodial parent that are attributable to the child, to the increased costs of  
4 the noncustodial parent associated with the child's visit, and to the relative  
5 incomes of both parents.

6 (C) Abatement or reduction of the chart amount and  
7 justification of the same shall be clearly set forth in the written findings  
8 of the court.

9 (D) (i) The noncustodial parent shall provide written  
10 notification within ten (10) days, when abatement or reduction of child  
11 support should occur due to extended visitation, to the clerk of the court  
12 responsible for receipt of the child support payment, the noncustodial  
13 parent's employer, if income withholding is in effect, and the Office of Child  
14 Support Enforcement, when applicable.

15 (ii) It is the responsibility of the noncustodial  
16 parent to notify the clerk of the court responsible for receipt of the child  
17 support payment, the noncustodial parent's employer, if income withholding is  
18 in effect, and the Office of Child Support Enforcement, when applicable, when  
19 abatement or reduction should stop and payment of child support should resume.

20 (E) If the noncustodial parent fails to exercise extended  
21 visitation periods, the child support shall not be abated or reduced."

22

23 SECTION 8. Arkansas Code § 9-14-208 is hereby amended to read as  
24 follows:

25 "(a) As used in this section, unless the context otherwise requires:

26 (1) Noncustodial parent means a natural or adoptive parent,  
27 including a putative father, who does not reside with his dependent child and  
28 against whom the Office of Child Support Enforcement is enforcing or seeking  
29 to enforce a support obligation pursuant to a plan described in Title IV-D of  
30 the Social Security Act;

31 (2) Business means any corporation, partnership, association,  
32 individual, utility company that is organized privately, as a cooperative, or  
33 as a quasi-public entity, and labor or other organization maintaining an  
34 office, doing business, or having a registered agent in the State of Arkansas;

35 (3) Office of Child Support Enforcement means the Office of

1 Child Support Enforcement of the Revenue Division of the Department of Finance  
2 and Administration or a local child support enforcement unit contracting under  
3 § 9-14-207 to establish and enforce support obligations;

4           (4) Financial entity means any bank, trust company, savings and  
5 loan association, credit union, insurance company, or any corporation,  
6 association, partnership, or individual receiving or accepting money or its  
7 equivalent on deposit as a business in the State of Arkansas;

8           (5) Information means, but is not necessarily limited to, the  
9 following:

10                   (A) The full name of the noncustodial parent;

11                   (B) The social security number of the noncustodial parent;

12                   (C) The date of birth of the noncustodial parent;

13                   (D) The last known mailing and residential address of the  
14 noncustodial parent;

15                   (E) The amount of wages, salaries, earnings, or commissions  
16 earned by or paid to the noncustodial parent;

17                   (F) The number of dependents declared by the noncustodial  
18 parent on state and federal tax information and reporting forms;

19                   (G) The name of the company, policy numbers, and dependent  
20 coverage for any medical insurance carried by and on behalf of the  
21 noncustodial parent;

22                   (H) The name of the company, policy numbers, and the cash  
23 values, if any, of any life insurance policies or annuity contracts which are  
24 carried by or on behalf of or owned by the noncustodial parent; and

25                   (I) Any retirement benefits, pension plans, or stock  
26 purchase plans maintained on behalf of or owned by the noncustodial parent and  
27 the values thereof, employee contributions thereto, and the extent to which  
28 each benefit or plan is vested;

29           (6) State agency means any department, board, bureau,  
30 commission, or other agency of this state.

31           (b) (1) For the purpose of locating and determining resources of  
32 noncustodial parents, the Office of Child Support Enforcement may request and  
33 receive information from the Federal Parent Locator Service, from available  
34 records in other states, territories, and the District of Columbia, from the  
35 records of all state agencies, and from businesses and financial entities.

1           (2) The Director of the Office of Child Support Enforcement may  
2 enter into cooperative agreements with other state agencies, businesses, or  
3 financial entities to provide direct on-line access to data information  
4 terminals, computers, or other electronic information systems.

5           (3) The state agencies, businesses, and financial entities shall  
6 provide information, if known or chronicled in their business records,  
7 notwithstanding any other provision of law making the information  
8 confidential.

9           (4) In addition, the Office of Child Support Enforcement may,  
10 pursuant to an agreement with the Secretary of the United States Department of  
11 Health and Human Services, or his designee, request and receive from the  
12 Federal Parent Locator Service information authorized under 42 U.S.C. § 653,  
13 for the purpose of determining the whereabouts of any parent or child. This  
14 information may be requested and received when it is to be used to locate the  
15 parent or child for the purpose of enforcing any state or federal law with  
16 respect to the unlawful taking or restraining of a child or for the purpose of  
17 making or enforcing a child custody determination.

18           (c) Any business or financial entity which has received a request from  
19 the Office of Child Support Enforcement as provided by subsection (b) of this  
20 section shall further cooperate with the Office of Child Support Enforcement  
21 in discovering, retrieving, and transmitting information contained in the  
22 business records that would be useful in locating absent parents or in  
23 establishing or enforcing child support orders on absent parents, and shall  
24 provide the requested information, or a statement that any or all of the  
25 requested information is not known or available to the business or financial  
26 entity. This shall be done within sixty (60) days of receipt of the request  
27 or the business or financial entity shall be liable for civil penalties of up  
28 to one hundred dollars (\$100) for each day after the sixty-day period in which  
29 it fails to provide the information so requested.

30           (d) Any business or financial entity, or any officer, agent, or  
31 employee of such entity, participating in good faith and providing information  
32 requested under this section, shall be immune from liability and suit for  
33 damages that might otherwise result from the release of the information to the  
34 Office of Child Support Enforcement.

35           (e) Any information obtained under the provisions of this section shall

1 become a business record of the Office of Child Support Enforcement.

2 (f) The Administrator of the Office of Child Support Enforcement and  
3 the hospital, birthing center, certified nurse practitioner, or licensed  
4 midwife delivering the child shall enter into cooperative agreements to  
5 compensate at a rate not to exceed twenty dollars (\$20.00) for each  
6 acknowledgement of paternity forwarded by the hospital, birthing center,  
7 certified nurse practitioner, or licensed midwife to the Office of Child  
8 Support Enforcement."

9

10 SECTION 9. Arkansas Code Annotated § 9-14-209 is hereby amended to read  
11 as follows:

12 "9-14-209. Office of Child Support Enforcement - Duty to provide  
13 information to consumer reporting agency.

14 (a) As used in this section, unless the context otherwise requires:

15 (1) Consumer reporting agency means any person which, for  
16 monetary fees, dues, or on a cooperative, nonprofit basis, regularly engages,  
17 in whole or in part, in the practice of assembling or evaluating consumer  
18 credit information or other information on consumers for the purpose of  
19 furnishing consumer reports to third parties. This term also includes any  
20 person who uses any means or facility of interstate commerce for the purpose  
21 of preparing or furnishing consumer reports;

22 (2) Overdue support means a delinquency pursuant to an  
23 obligation created under a court order or an order of an administrative  
24 process established under state law for the support and maintenance of a minor  
25 child as verified by the Office of Child Support Enforcement.

26 (b) Upon written request by a consumer reporting agency, the Office of  
27 Child Support Enforcement shall provide information to the agency regarding an  
28 amount of overdue support owed by a noncustodial parent in a case involving  
29 the IV-D agency.

30 (c) The Office of Child Support Enforcement shall report to a consumer  
31 reporting agency the name of any noncustodial parent who owes overdue support  
32 in a case involving the IV-D agency and the delinquent amount.

33 (d) (1) Prior to disclosure of the information to a consumer reporting  
34 agency, the Office of Child Support Enforcement shall send the noncustodial  
35 parent a notice by regular mail to his last known address.

1           (2) The notice shall inform the noncustodial parent of the name  
2 and address of the consumer reporting agency, the amount of overdue support to  
3 be released, the procedure available for the noncustodial parent to contest  
4 the accuracy of the information, and a statement that if the noncustodial  
5 parent fails to contest the disclosure within seven (7) days of the mailing  
6 date on the notice, the information will be released.

7           (e) Such information shall not be made available to:

8           (1) A consumer reporting agency that the Office of Child Support  
9 Enforcement determines does not have sufficient capability to systematically  
10 and timely make accurate use of such information; or

11           (2) An entity that has not furnished evidence satisfactory to the  
12 Office of Child Support enforcement that the entity is a consumer reporting  
13 agency."  
14

15           SECTION 10. Arkansas Code § 9-14-210(e) is hereby amended to read as  
16 follows:

17           "(e) (1) In any action brought to establish paternity, to secure  
18 repayment of government benefits paid or assigned child support arrearages, to  
19 secure current and future support of children, or to establish, enforce, or  
20 modify a child support obligation, the Department of Human Services, the  
21 Office of Child Support Enforcement, or both, or their contractors, may employ  
22 attorneys.

23           (2) An attorney so employed shall represent the interests of the  
24 Department of Human Services or the Office of Child Support Enforcement and  
25 does not represent the assignor of an interest set out in subsection (d) of  
26 this section.

27           (3) Representation by the employed attorney shall not be  
28 construed as creating an attorney-client relationship between the attorney and  
29 the assignor of an interest set forth in subsection (d) of this section, or  
30 with any party or witness to the action, other than the Department of Human  
31 Services or the Office of Child Support Enforcement, regardless of the name in  
32 which the action is brought."  
33

34           SECTION 11. Arkansas Code § 9-14-212(a) is hereby amended to read as  
35 follows:



1           "(a) The Office of Child Support Enforcement may charge a nonrefundable  
2 application fee of up to twenty-five dollars (\$25.00) to any person who  
3 contracts with the Office of Child Support Enforcement for any services under  
4 Title IV-D of the Social Security Act for whom an assignment under §20-76-410  
5 is not in effect."  
6

7           SECTION 12. Arkansas Code § 9-14-215(b) is hereby amended to read as  
8 follows:

9           "(b) (1) The clerk and the sheriff may collect fees in all other cases  
10 from the Office of Child Support Enforcement by submitting monthly or  
11 quarterly statements for their services.

12                   (2) Each statement shall clearly note the full name of the  
13 noncustodial parent thereon.

14                   (3) No clerk or sheriff may refuse service to the Office of Child  
15 Support Enforcement or its attorney for its failure to pay the fees in  
16 advance."  
17

18           SECTION 13. Arkansas Code §9-14-225(c) is hereby amended to read as  
19 follows:

20           "(c) Moneys withheld in cases brought under Title IV-D of the Social  
21 Security Act shall become the property of the Office of Child Support  
22 Enforcement to be distributed in accordance with child support policy."  
23

24           SECTION 14. Arkansas Code § 9-14-236(a) is hereby amended to read as  
25 follows:

26           "(a) As used in this section:

27                   (1) Action means any complaint, petition, motion, or other  
28 pleading seeking recovery of accrued child support arrearages;

29                   (2) Moving party means any of the following:

30                           (A) The custodial parent;

31                           (B) Any person or agency to whom custody of a minor child  
32 has been given or relinquished;

33                           (C) The minor child through his guardian or next friend;

34                           (D) A person for whose benefit the support was ordered,

35 within five (5) years of obtaining his majority; or

1 (E) The Office of Child Support Enforcement when the  
2 custodial parent or person to whom custody has been relinquished or awarded is  
3 or has been receiving assistance in the form of Aid to Families with Dependent  
4 Children or has contracted with the Office of Child Support Enforcement for  
5 the collection of support;

6 (3) Accrued child support arrearages means a delinquency owed  
7 under a court order or an order of an administrative process established under  
8 state law for support of any child or children which is past due and unpaid;

9 (4) Initial support order means the earliest order, judgement,  
10 or decree entered in the case by the court or by administrative process which  
11 contains a provision for the payment of money for the support and care of any  
12 child or children."

13

14 SECTION 15. Arkansas Code § 9-14-401 is hereby amended to read as  
15 follows:

16 "9-14-401. Creation.

17 (a) There is hereby established the State Commission on Child Support  
18 to be composed of not more than twenty-five (25) members appointed by the  
19 Governor and to be representative of custodial parents, noncustodial parents,  
20 Office of Child Support Enforcement personnel, legislators, judges, court  
21 clerks, child welfare agencies, and other professionals with an interest in  
22 support enforcement.

23 (b) Members of the commission shall be appointed by the Governor and  
24 shall serve for a period of three (3) years, subject to reappointment. Members  
25 shall serve without compensation, but shall be entitled to per diem and  
26 mileage allowances for attendance at commission meetings at the same rate  
27 authorized by law for legislators' attendance at meetings of joint interim  
28 committees of the General Assembly.

29 (c) The chairman of the commission shall be selected annually by  
30 majority vote of the commission.

31 (d) All commission members shall be notified thirty (30) days in  
32 advance of any commission meeting.

33 (e) Any commission member who is absent without excuse approved by the  
34 chairman for three (3) meetings shall be deemed to have removed himself from  
35 the commission. The secretary of the commission shall notify the Secretary of

1 State of the removal so that proper notification can be forwarded to the  
2 member to notify him of his removal. A copy of the notification shall be  
3 forwarded to the Governor for appointment of a replacement.

4 (f) Expense reimbursement shall be paid from funds appropriated to the  
5 Office of Child Support Enforcement of the Revenue Division of the Department  
6 of Finance and Administration for such purposes."

7

8 SECTION 16. Arkansas Code § 9-14-402 is hereby amended to read as  
9 follows:

10 "9-14-402. Staff. The Administrator of the Office of Child Support  
11 Enforcement shall assign staff of the Office of Child Support Enforcement to  
12 assist the commission in carrying out its duties and responsibilities."

13

14 SECTION 17. Arkansas Code § 9-14-806 is hereby amended to read as  
15 follows:

16 "9-14-806. Report on statewide application. Upon completion of the  
17 test study, the Office of Child Support Enforcement shall report to the State  
18 Commission on Child Support and the Director of the Department of Finance and  
19 Administration the success and feasibility of statewide application of the  
20 centralized clearinghouse system. Upon recommendation of the commission with  
21 the concurrence of the director, authority is granted to the director to  
22 implement the centralized clearinghouse system for the collection of all child  
23 support payments statewide."

24

25 SECTION 18. Arkansas Code § 9-27-310(b) is hereby amended to read as  
26 follows:

27 "(b) (1) The prosecuting attorney shall have sole authority to file a  
28 delinquency petition or petition for revocation of probation.

29 (2) Only a law enforcement officer, prosecuting attorney, the  
30 Department of Human Services or its designee may file a dependency-neglect  
31 petition seeking ex parte emergency relief.

32 (3) Petitions for dependency-neglect or family in need of  
33 services may be filed by:

34 (A) Any adult; or

35 (B) Any member ten (10) years or older of the immediate

1 family alleged to be in need of services.

2 (4) Petitions for paternity establishment may be filed by:

3 (A) The biological mother;

4 (B) A putative father;

5 (C) A juvenile; or

6 (D) The Office of Child Support Enforcement."

7

8 SECTION 19. Arkansas Code Annotated § 9-27-311 is amended to read as  
9 follows:

10 "9-27-311. Required contents of petition.

11 (a) The petition shall set forth the following:

12 (1) The name, address, gender, and date of birth of the juvenile;

13 (2) The name and address of each of the parents or the surviving  
14 parent of the juvenile;

15 (3) The name and address of the person, agency, or institution  
16 having custody of the juvenile;

17 (4) The name and address of any other person, agency, or  
18 institution having a claim to custody or guardianship of the juvenile; and

19 (5) In a proceeding to establish paternity, the name and address  
20 of both the putative father and the presumed legal father, if any.

21 (b) If the name or address of anyone listed in subsection (a) of this  
22 section is unknown or cannot be ascertained by the petitioner with reasonable  
23 diligence, such shall be alleged in the petition and the petition shall not be  
24 dismissed for insufficiency, but the court shall direct appropriate measures  
25 to find and give notice to such persons.

26 (c) All persons named in subsection (a) of this section shall be made  
27 defendants and served as required by this subchapter, except that all actions  
28 filed pursuant to § 9-27-310(b)(4)(D) shall be required to name as defendants  
29 only the mother, the putative father, and the presumed legal father, if any.

30 (d)(1) The petition shall set forth the following in plain and concise  
31 words:

32 (A) The facts which, if proven, would bring the family or  
33 juvenile within the court's jurisdiction;

34 (B) The section of this subchapter upon which jurisdiction  
35 for the petition is based;

1 (C) The relief requested by the petitioner; and

2 (D) If a petition for delinquency proceedings, any and all  
3 sections of the criminal laws allegedly violated.

4 (2) Except in delinquency or paternity cases, the petition shall  
5 be supported by an affidavit of facts. A supporting affidavit of facts shall  
6 not be required for delinquency or paternity petitions."

7

8 SECTION 20. Arkansas Code § 9-27-342(b) is hereby amended to read as  
9 follows:

10 "(b) The biological mother, the putative father, the juvenile himself,  
11 or the Office of Child Support Enforcement may bring an action to establish  
12 paternity or support of a juvenile alleged to be illegitimate."

13

14 SECTION 21. Arkansas Code § 11-9-110 is hereby amended to read as  
15 follows:

16 "11-9-110. Compensation nonassignable, etc., and payable to dependents  
17 only - Child support obligations excepted.

18 (a) The right to compensation shall not be assignable and shall not be  
19 subject to garnishment, attachment, levy, execution, or any other legal  
20 process except for child support obligations.

21 (b) Money compensation to dependents of a deceased employee shall not  
22 constitute assets of the estate of the deceased employee and shall be payable  
23 to and for the benefit of the dependents alone.

24 (c) On or after August 1, 1987, the commission shall forward monthly a  
25 computer tape, listing the name, address, and social security number, if  
26 available, on all persons for which the commission has established a file  
27 during the preceding month, to the Arkansas Office of Child Support  
28 Enforcement of the Department of Finance and Administration. The computer tape  
29 shall also include the name of the workers' compensation carrier and the name  
30 of the employer. The same information shall be provided to individuals who  
31 apply for the information with the commission on an individual employee to an  
32 individual certifying that they have an interest in the child support  
33 obligations of the employee on whom the information is requested.

34 (d) Amounts withheld from weekly compensation benefits for child  
35 support obligations shall not exceed twenty-five percent (25%) of the benefit

1 amount. Amounts withheld from a lump sum settlement on a joint petition for  
2 child support obligations shall not exceed fifty percent (50%) of the  
3 settlement amount.

4 (e) Any amount withheld under subsection (d) shall be paid through the  
5 appropriate court payable to the person or agency to whom the obligation is  
6 payable.

7 (f) Any amount withheld pursuant to the provisions of this section  
8 shall for all purposes be treated as if it were paid to the employee as  
9 workers' compensation and paid by the employee to the person or agency to whom  
10 the obligation is payable.

11 (g) For purposes of this section, child support obligations is  
12 defined as only those support obligations which are contained in a decree or  
13 order of the chancery court or county court which provides for the payment of  
14 money for the support and care of any child or children."  
15

16 SECTION 22. Arkansas Code Annotated § 9-9-220(a) is hereby amended to  
17 read as follows:

18 "(a) With the exception of the duty to pay child support, the rights of  
19 a parent with reference to a child, including parental right to control the  
20 child or to withhold consent to an adoption, may be relinquished and the  
21 relationship of parent and child terminated in or prior to an adoption  
22 proceeding as provided in this section. The duty of a parent to pay child  
23 support shall continue until an interlocutory decree of adoption is entered."  
24

25 SECTION 23. Arkansas Code Annotated § 27-23-125 is hereby amended to  
26 read as follows:

27 "27-23-125. Suspension of commercial driver\_s license for delinquent  
28 child support.

29 (a) As used in this section:

30 (1) Department means the Department of Finance and  
31 Administration or its duly authorized agents; and

32 (2) Office means the Office of Child Support Enforcement of the  
33 Revenue Division of the Department of Finance and Administration; and

34 (3) Commercial driver\_s license means a license to operate a  
35 commercial motor vehicle issued and regulated pursuant to § 27-23-101 et seq.

1 (b) (1) Unless a noncustodial parent executes an installment payment  
2 agreement or makes other necessary and proper arrangements with the office,  
3 the office shall notify the department to suspend the commercial driver's  
4 license of a noncustodial parent whenever the office determines that one (1)  
5 of the following conditions exists:

6 (A) The noncustodial parent is delinquent on a  
7 court-ordered child support payment or an adjudicated arrearage in an amount  
8 equal to six (6) months\_ obligation or more; or

9 (B) The noncustodial parent is the subject of an  
10 outstanding failure to appear warrant, a body attachment, or a bench warrant  
11 related to a child support proceeding.

12 (2) (A) Prior to notification to suspend the commercial driver\_s  
13 license of the noncustodial parent, the office shall determine if the  
14 noncustodial parent holds a commercial driver's license by electronic data  
15 exchange, if necessary, with the department.

16 (B) The office shall notify the noncustodial parent that a  
17 request will be made to the department to suspend the license ninety (90) days  
18 after the notification, unless a hearing with the office is requested in  
19 writing within thirty (30) days to determine whether one (1) of the conditions  
20 of suspensions does not exist, or unless within thirty (30) days the  
21 noncustodial parent executes an installment payment agreement or makes other  
22 necessary and proper arrangements with the office.

23 (C) Notification shall be sufficient under this section if  
24 mailed to the noncustodial parent at either the last known address provided to  
25 a court by the parent pursuant to § 9-14-205 or to the address used by the  
26 noncustodial parent on the commercial driver\_s license.

27 (c) Following a determination by the office under subsection (b) of  
28 this section, the office shall notify the department to suspend the commercial  
29 driver\_s license of the noncustodial parent.

30 (d) The department, upon receipt of the notification, shall immediately  
31 suspend the commercial driver's license of the noncustodial parent. Such  
32 suspension shall remain in effect until the department is notified by the  
33 office to release the suspension.

34 (e) The office and the department are hereby authorized to promulgate  
35 rules and regulations necessary to carry out this section in the interests of

1 justice and equity.

2 (f) The office is authorized to seek an injunction, in the chancery  
3 court of the county where the child support order was entered, to restrain the  
4 noncustodial parent from commercial driving during the period that the  
5 noncustodial parent\_s commercial driver\_s license is suspended.

6 (g) Any noncustodial parent whose commercial driver\_s license has been  
7 suspended may appeal, to the chancery court of the county where their child  
8 support order was entered, within *sixty (60)* days after suspension by filing a  
9 copy of the notice of suspension with the clerk of the chancery court and by  
10 causing a summons to be served on the administrator of the office.

11 (1) For persons paying child support pursuant to § 9-17-501 or §  
12 9-17-502, the foreign order shall be registered by the office pursuant to § 9-  
13 17-601, et seq.

14 (2) The case shall be tried de novo in the chancery court.

15 (3) The chancery judge is vested with jurisdiction to determine  
16 whether the petitioner is entitled to a license, permit, or permanent license  
17 plate or whether the decision of the hearing officer should be affirmed,  
18 modified, or reversed."

19

20 SECTION 24. Arkansas Code Annotated § 9-14-234(a) is hereby amended to  
21 read as follows:

22 "(a) Any decree, judgment, or order which contains a provision for the  
23 payment of money for the support and care of any child or children through the  
24 registry of the court shall be final judgment subject to writ of garnishment  
25 or execution as to any installment or payment of money which has accrued until  
26 the time either party moves through proper motion filed with the court and  
27 served on the other party to set aside, alter, or modify the decree, judgment,  
28 or order."

29

30 SECTION 25. Arkansas Code Annotated § 9-14-227 is hereby amended to  
31 read as follows:

32 "9-14-227. Income withholding - Administrative costs - Applicability to  
33 unemployment compensation and workers' compensation.

34 (a) A payor may withhold up to two dollars and fifty cents (\$2.50) per  
35 pay period in addition to the court-ordered income withholding amount for the



1 administrative cost incurred in each withholding.

2 (b) The income withholding provisions of this subchapter shall apply to  
3 unemployment compensation benefits to the extent allowed by §§ 11-10-109 and  
4 11-10-110.

5 (c) The income withholding provisions of this subchapter shall apply to  
6 workers' compensation benefits to the extent allowed by § 11-9-110."

7

8 SECTION 26. Arkansas Code Annotated § 9-14-218 is hereby amended by  
9 adding a new subsection (f) to read as follows:

10 "(f) In those cases in which a support order has been issued or  
11 modified after August 2, 1985, without the inclusion of an income withhold  
12 provision, income withholding may be initiated in accord with procedures set  
13 forth in § 9-14-221 whenever child support arrearages owed by the noncustodial  
14 parent equal the total amount of court-ordered support payable for thirty (30)  
15 days."

16

17 SECTION 27. Arkansas Code Annotated § 9-14-210 is hereby amended by  
18 adding new subsections (g), (h), and (i) to read as follows:

19 "(g) It shall be unlawful for any person to use or disclose any  
20 information concerning applicants for or recipients of child support  
21 enforcement services provided by the Office of Child Support Enforcement under  
22 Title IV-D of the Social Security Act, except for purposes directly connected  
23 with the following:

24 (1) Administration of the state plan for child support  
25 enforcement required under Title IV-D of the Social Security Act,  
26 administration of the Title IV-D program, or administration of programs  
27 approved under Parts A,B,D,E, or F of Title IV or under Titles I, X, XIV, XVI,  
28 XIX, or XX or the supplemental security income program established under Title  
29 XVI of the Social Security Act;

30 (2) Any investigation, prosecution, or criminal or civil  
31 proceeding conducted in connection with the administration of any plan or  
32 program listed in subsection (g)(1);

33 (3) Administration of any federal program that provides  
34 assistance, in cash or in kind, or services directly to individuals based on  
35 need; and

1           (4) A report to the appropriate agency or official of information  
2 on known or suspected instances of physical or mental injury, sexual abuse or  
3 exploitation, or negligent treatment or maltreatment of a child who is the  
4 subject of a child support enforcement service when circumstances indicate  
5 that the child's health or welfare is threatened.

6           (h) It shall be unlawful to disclose to any committee or legislative  
7 body any information that identifies by name or address any applicant or  
8 recipient of Title IV-D child support enforcement services.

9           (i) A violation of this section shall constitute a Class B  
10 misdemeanor."

11

12           SECTION 28. Arkansas Code Annotated § 11-9-110(c) is hereby amended to  
13 read as follows:

14           "(c) On or after June 30, 1993, the commission shall forward monthly a  
15 computer tape, listing the name, address, and social security number, if  
16 available, on all persons for which the commission has established a file  
17 during the preceding month, to the Office of Child Support Enforcement of the  
18 Revenue Division of the Department of Finance and Administration. The computer  
19 tape shall also include the name of the workers' compensation carrier and the  
20 name of the employer. The same information shall be provided to individuals  
21 who apply for the information with the commission on an individual employee to  
22 an individual certifying that they have an interest in the child support  
23 obligations of the employee on whom the information is requested."

24

25           SECTION 29. Arkansas Code Annotated § 12-12-211(d) is hereby amended to  
26 read as follows:

27           "(d) (1) The Office of Child Support Enforcement of the Revenue Division  
28 of the Department of Finance and Administration of this state shall be  
29 considered a criminal justice agency solely for the purpose of securing  
30 information from the Arkansas Crime Information Center of this state regarding  
31 the address or whereabouts of any deserting parent from whom the Office of  
32 Child Support Enforcement is charged with collecting child support.

33           (2) It shall be unlawful, except for the purpose of performing  
34 the duties of the Office of Child Support Enforcement or upon court order, for  
35 any person to disclose information obtained by this subsection. Upon

1 conviction any person violating this section shall be guilty of a Class A  
2 misdemeanor."

3

4 SECTION 30. Arkansas Code Annotated § 16-56-129 is hereby repealed.

5

6 SECTION 31. Arkansas Code Annotated § 19-5-1015 is hereby amended to  
7 read as follows:

8 "19-5-1015. Child Support Enforcement Fund.

9 (a) There is established on the books of the Treasurer of State,  
10 Auditor of State, and the Chief Fiscal Officer of the State the Child Support  
11 Enforcement Fund.

12 (b) This fund will be used for deposit of funds collected by the Office  
13 of Child Support Enforcement of the Revenue Division of the Department of  
14 Finance and Administration under Title IV, Part D, of the Social Security Act.

15 (c) Funds received in this account shall include:

16 (1) The state share of funds collected by the Office of Child  
17 Support Enforcement that were previously paid by the state as Aid to Families  
18 with Dependent Children payments;

19 (2) All incentive payments received from the federal government  
20 for both Aid to Families with Dependent Children and non-Aid to Families with  
21 Dependent Children collections;

22 (3) All amounts received as reimbursement from the state and  
23 federal programs; and

24 (4) All amounts earned as interest on these amounts.

25 (d) It is the intent of the General Assembly that the Office of Child  
26 Support Enforcement operated under Title IV, Part D, of the Social Security  
27 Act, utilize funds retained in the Child Support Enforcement Fund for  
28 operation and improvement of the program in this state. All funds accumulated  
29 in the Child Support Enforcement Fund shall be retained by the program to pay  
30 expenses incurred in the operation and improvement of the program in  
31 Arkansas."

32

33 SECTION 32. Arkansas Code Annotated § 20-18-407 is hereby amended to  
34 read as follows:

35 "20-18-407. Social security numbers of parents.

1 (a) Social security account information of parents of a child born  
2 within this state shall be furnished to the Division of Vital Records at the  
3 time of filing the certificate of birth, but such information shall not appear  
4 on the certificate.

5 (b) The Division of Vital Records shall make available the records of  
6 parent name and social security number to the Office of Child Support  
7 Enforcement of the Revenue Division of the Department of Finance and  
8 Administration for its use in the establishment of paternity or the  
9 enforcement of child support orders through electronic transfer mechanism.  
10 Such disclosure shall constitute an exception to the prohibitions within §  
11 20-18-304.

12 (c) Information obtained by the Office of Child Support Enforcement  
13 pursuant to this section may be used in an action or proceeding before any  
14 court, administrative tribunal, or other body for the purpose of establishing  
15 a child support obligation, collecting child support, or locating individuals  
16 owing the obligation."

17

18 SECTION 33. Arkansas Code Annotated § 20-18-704 is hereby amended to  
19 read as follows:

20 "20-18-704. Furnishing of information.

21 (a) The department shall make available to attorneys the telephone  
22 number of the registry for purposes of inquiry as to a putative father's name  
23 and address contained in the registry.

24 (b) Information contained in the registry shall be admissible in any  
25 court proceeding in any court in this state.

26 (c) Upon receipt of a written request by the registrant, the mother, or  
27 the child, or pursuant to any request of the Department of Human Services, the  
28 Office of Child Support Enforcement, a prosecuting attorney or an attorney  
29 acting on behalf of his client in litigation involving the determination of  
30 paternity or support for the child or an adoption of the child, the department  
31 shall furnish a certified copy of the registry information for a named  
32 putative father, natural mother, or child.

33 (d) Upon request, the department shall furnish, through electronic data  
34 exchange or otherwise, a copy of the registry to the Office of Child Support  
35 Enforcement for use in establishing paternity and support obligations.

1 (e) Otherwise, registry information shall be considered confidential  
2 and may not be disclosed. Registry information shall not be subject to §  
3 25-19-101 et seq."  
4

5 SECTION 34. Arkansas Code § 20-76-412 is hereby amended to read as  
6 follows:

7 "20-76-412. Abandonment - Duties of Department of Human Services.

8 Whenever any person makes an application for Aid for Dependent Children  
9 assistance from the appropriate division of the Department of Human Services  
10 and the application reveals that the applicant or child or children was put in  
11 such needy circumstances as to require public assistance by reason of the fact  
12 that the spouse or child or the illegitimate child was deserted or abandoned  
13 or left in destitute or necessitant circumstances by willful neglect or  
14 refusal to provide for the support or maintenance of the spouse or child by  
15 the child's parents, then it shall be the duty of the department to refer that  
16 applicant or child or children to the Office of Child Support Enforcement of  
17 the Revenue Division of the Department of Finance and Administration, to  
18 attempt to establish the paternity of the child or children, if necessary, and  
19 secure support therefor from any person who might owe the child or children a  
20 duty of support."  
21

22 SECTION 35. Arkansas Code Annotated § 25-10-118 is hereby amended to  
23 read as follows:

24 "25-10-118. Child Support Enforcement Program - Reports. The Office of  
25 Child Support Enforcement of the Revenue Division of the Department of Finance  
26 and Administration shall file a semiannual report with the Arkansas  
27 Legislative Council concerning performance and progress made in administering  
28 the Child Support Enforcement Program approved under Title IV-D of the Social  
29 Security Act."  
30

31 SECTION 36. Arkansas Code Annotated § 26-36-303 is hereby amended to  
32 read as follows:

33 "26-36-303. Definitions. As used in this subchapter, unless the context  
34 otherwise requires:

35 (1) \_Claimant agencies\_ means:

- 1 (A) State-supported colleges and universities;
- 2 (B) The Department of Human Services;
- 3 (C) The Arkansas Student Loan Authority;
- 4 (D) The Student Loan Guarantee Foundation;
- 5 (E) The Auditor of State;
- 6 (F) The State Department of Higher Education; and
- 7 (G) The Office of Child Support Enforcement

8 (2) (A) Debt means any liquidated sum due and owing any claimant  
9 agency, which has accrued through contract, subrogation, tort, operation of  
10 law, or any other legal theory, regardless of whether there is an outstanding  
11 judgment for that sum.

12 (B) Debt shall include accrued obligations due to an assignment  
13 of child support rights made to the state as a condition of eligibility for  
14 welfare assistance and those which have accrued from contract with the  
15 claimant agency by an individual who is not the recipient of welfare  
16 assistance.

17 (C) Debt shall also include the owing of money to a claimant  
18 agency as a result of a debtor cashing both the original and the duplicate  
19 state warrants;

20 (3) Debtor means any individual owing money to or having a delinquent  
21 account with any claimant agency, which obligation has not been adjudicated,  
22 satisfied by court order, set aside by court order, or discharged in  
23 bankruptcy;

24 (4) Division means the Revenue Division of the Department of Finance  
25 and Administration;

26 (5) Refund means the Arkansas income tax refund which the division  
27 determines to be due any individual taxpayer, less any amounts determined by  
28 the division to be due to the division for payment of any state tax as defined  
29 in the Arkansas Tax Procedure Act, as amended, § 26-18-101 et seq.;

30 (6) Setoff means withholding of part or all of income tax refunds due  
31 individuals who owe debts to the State of Arkansas."

32

33 SECTION 37. Arkansas Code annotated § 26-51-813(e) is hereby amended to  
34 read as follows:

35 "Nothing in this section shall be construed to prohibit the Department

1 of Finance and Administration from disclosing from any return or other record  
2 maintained by the director, to the Office of Child Support Enforcement, the  
3 last known address or whereabouts or the last known employer of any deserting  
4 parent from whom the Office of Child Support Enforcement is charged with  
5 collecting child support. In providing this information, the Department of  
6 Finance and Administration shall not allow the Office of Child Support  
7 Enforcement to examine the tax return, except that the Department of Finance  
8 and Administration shall disclose the taxpayer\_s tax return, personal and  
9 business, when compelled by an order of any Arkansas chancery court or the  
10 Arkansas Supreme Court in any case or controversy before that court."

11

12 SECTION 38. Arkansas Code Annotated § 9-14-235 is hereby amended to  
13 read as follows:

14 "9-14-235. Arrearages - Payment after duty to support ceases.

15 (a) If a child support arrearage or judgment exists at the time when  
16 all children entitled to support reach majority, are emancipated, or die, or  
17 when the obligor's current duty to pay child support otherwise ceases, the  
18 obligor shall continue to pay an amount equal to the court-ordered child  
19 support, or an amount to be determined by a court based on the application of  
20 guidelines for child support under the family support chart, until such time  
21 as the child support arrearage or judgment has been satisfied.

22 (b) When the order of support directs an amount of support per child,  
23 as each child reaches majority, is emancipated, or dies, or the obligor's  
24 current duty to pay support otherwise ceases, the obligor shall continue to  
25 pay the amount set as child support, or an amount set by a court based on the  
26 application of the guidelines for child support under the family support  
27 chart, for that child if a judgment or child support arrearage exists until  
28 such time as the judgment or arrearage has been satisfied.

29 (c) Enforcement through income withholding, intercept of unemployment  
30 benefits or workers' compensation benefits, income tax intercept, additional  
31 payments ordered to be paid on the child support arrearage or judgment,  
32 contempt proceedings, or any other means of collection shall be available for  
33 the collection of a child support arrearage or judgment until such is  
34 satisfied.

35 (d) Income withholding under § 9-14-229(b) may be used to satisfy a

1 child support arrearage or judgment.

2 (e) As used in this section, \_judgment\_ means unpaid child support and  
3 medical bills, interest, attorney's fees, or costs associated with a child  
4 support case when such has been reduced to judgment by the court or become a  
5 judgment by operation of law.

6 (f) The purpose of this section is to allow the enforcement and  
7 collection of child support arrearages and judgments after the obligor's duty  
8 to pay support ceases."

9

10 SECTION 39. Arkansas Code Annotated § 9-14-107 is hereby amended to  
11 read as follows:

12 "9-14-107. Change in payor income warranting modification.

13 (a) A change in gross income, as defined in subsection (b) of this  
14 section, of the payor in an amount equal to or more than twenty percent (20%)  
15 or more than one hundred dollars (\$100) per month shall constitute a material  
16 change of circumstances sufficient to petition the court for review and  
17 adjustment of the child support obligated amount according to the family  
18 support chart after appropriate deductions.

19 (b) For purposes of this section, the term \_income\_ includes gains,  
20 profits, and income derived from salaries, wages, or compensation for personal  
21 service of whatever kind and in whatever form paid, or from professions,  
22 vocations, trades, business, commerce, sales, or dealings in property, whether  
23 real or personal, growing out of the ownership of, use of, or interest in the  
24 property; from interest, rent, royalties, dividends, annuities, securities, or  
25 the transaction of any business carried on for gain or profit, or gains or  
26 profits; and income derived from any source whatever, and any payments of  
27 alimony and separate maintenance received pursuant to a court order.

28 (c) A change in the noncustodial parent\_s health insurance status, as  
29 defined in subsection (d) of this section, shall constitute a material change  
30 of circumstances sufficient to petition the court for review and adjustment of  
31 the child support order according to the guidelines for child support and the  
32 family support chart.

33 (d) For purposes of this section the term \_health insurance status\_  
34 shall mean that the noncustodial parent can obtain health insurance through  
35 his employer or other group health insurance. Health insurance shall be



1 considered reasonable in cost if it is employment related or is other group  
2 health insurance, regardless of service delivery mechanism.

3 (e) In no event shall eligibility for or receipt of Medicaid be  
4 considered adequate provision for the child\_s health care needs in a child  
5 support award.

6 (f) An inconsistency between the existent child support award and the  
7 amount of child support that results from application of the family support  
8 chart shall constitute a material change of circumstances sufficient to  
9 petition the court for review and adjustment of the child support obligated  
10 amount according to the family support chart after appropriate deductions  
11 unless:

12 (1) The inconsistency does not meet a reasonable quantitative  
13 standard established by the State, in accordance with subsection (a) of this  
14 section; or

15 (2) The inconsistency is due to the fact that the amount of the  
16 current child support award resulted from a rebuttal of the guideline amount  
17 and there has not been a change of circumstances that resulted in the rebuttal  
18 of the guideline amount."

19

20 SECTION 40. Arkansas Code Annotated § 5-37-306(a) is hereby amended to  
21 read as follows:

22 "(a) Prosecutions for violations of the Arkansas Hot Check Law,  
23 §§5-37-301 - 5-37-307, may be in the county of residence of the drawer or of  
24 the payee of the check, draft, or order, or in the county in which the drawee  
25 bank is located; however, in all cases involving child support payments  
26 processed by the Arkansas Office of Child Support Enforcement , the  
27 prosecution for the violation may be in Pulaski County."

28

29 SECTION 41. Arkansas Code Annotated § 9-14-206(b) is hereby amended to  
30 read as follows:

31 "(b) The Office of Child Support Enforcement is designated as the  
32 single public entity for the administration of income withholding of support  
33 payments in accordance with federal law."

34

35 SECTION 42. Arkansas Code Annotated § 9-10-102 is hereby amended to

1 read as follows:

2 "9-10-102. Actions governed by rules of civil procedure - Limitations  
3 periods - Venue - Summons.

4 (a) An action to establish the paternity of a child or children shall  
5 be commenced and proceed under the rules of civil procedure applicable in  
6 circuit and chancery courts and the juvenile division thereof, as amended  
7 from time to time by the Arkansas Supreme Court of the General Assembly.

8 (b) Actions brought in the State of Arkansas to establish paternity may  
9 be brought at any time. Any action brought prior to August 1, 1985, but  
10 dismissed because of a statute of limitations in effect prior to that date,  
11 may be brought for any person for whom paternity has not yet been established.

12 (c) Venue of paternity actions shall be in the county in which the  
13 plaintiff resides or, in cases involving a juvenile, in the county in which  
14 the juvenile resides.

15 (d) Summons may be issued in any county of this state in which the  
16 defendant may be found.

17 (e) Upon a default by the defendant, the court shall grant a finding of  
18 paternity and shall establish a child support order based on an application in  
19 accordance with the rules of civil procedure and the Family Support Chart.  
20 The court's grant of default paternity judgement shall be based on the  
21 presumed mother's affidavit of facts in which the presumed mother names the  
22 defendant as the father of her child and states the defendant's access during  
23 the probable period of conception.

24

25 SECTION 43. All provisions of this act of a general and permanent  
26 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
27 Code Revision Commission shall incorporate the same in the Code.

28

29 SECTION 44. If any provision of this act or the application thereof to  
30 any person or circumstance is held invalid, such invalidity shall not affect  
31 other provisions or applications of the act which can be given effect without  
32 the invalid provision or application, and to this end the provisions of this  
33 act are declared to be severable.

34

35 SECTION 45. All laws and parts of laws in conflict with this act are

1 hereby repealed.

2

/s/Rep. Northcutt, et al

3

4

APPROVED: 4-11-95

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